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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:

GIGA WATT, Inc., a Washington
corporation,

Debtor.

Case No. 18-03197 FPC 11

The Honorable Frederick P. Corbit

Chapter 7

**TRUSTEE'S MOTION TO
STRIKE DECLARATION OF
ARMAND J. KORNFELD RE
OBJECTION / OPPOSITION OF
"PERKINS GROUP" TO MOTION
FOR CONTEMPT AND
SANCTIONS**

Mark D. Waldron, as Chapter 7 Trustee, hereby moves to strike the
Declaration of Armand J. Kornfeld, ECF No. 978.

Mr. Kornfeld's declaration is a legal brief. Declarations may not contain
legal argument. An affidavit is "[a] voluntary declaration of facts." Black's Law
Dictionary (10th ed. 2014). It is not a supplemental briefing mechanism. *See e.g.,*
Lexington Ins. Co. v. Swanson, 240 F.R.D. 662, 672 (W.D. Wash. 2007) ("The
parties are advised that the Court will not consider legal arguments made in a

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1 declaration.”). *See Rubin v. Kirkland Chrysler-Jeep, Inc.*, C05-0052C, 2005 WL
2 8172700 (W.D. Wash. Oct. 7, 2005):

3 The Court further notes that there is no proper place in a declaration
4 for the extensive legal argument present in Defendant's declaration.
5 As a general rule, declarations should conform to the requirements of
6 Rule 56(e) and 28 U.S.C. § 1746. If Defendant wished the Court to
 consider the legal arguments in its declaration, the appropriate place
 for those arguments would have been in its motion to compel.

7 *Id.* at *2, n. 1. *See also Automatic Stay Order*, ECF No. 921 at 13-14 (refusing to
8 consider improper arguments presented by declaration).

9 The Kornfeld Declaration collaterally attacks the Automatic Stay Order and
10 the Preliminary Injunction Order. A collateral attack is any attack on an Order
11 outside of an appeal. Black’s Law Dictionary, 10th Ed., 2014. They are
12 impermissible.

13 The Kornfeld Declaration misstates the law echoing the legal mistakes
14 pointed out in the Trustee’s *Reply to Objection / Opposition of Perkins to*
15 *Trustee’s Motion to Dismiss Third-Party Complaint* (“Reply”), filed in the
16 Perkins’ adversary proceeding, Adv. P. No. 20-80031, and incorporated herein by
17 reference as if set forth fully herein.

18 The Kornfeld Declaration repeats the untrue statement that the Trustee’s
19 trust allegations are new. Further, it repeats the argument that Perkins held the
20 WTT purchasers’ money. The Court found that Mr. Dam’s ownership allegations
21 were not well-plead. *Automatic Stay Order*, ECF No. 921.

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1 Mr. Kornfeld lacks standing to be heard. He is not a party to the case and is
2 not representing any party.

3 Mr. Kornfeld's law firm was contacted twice by the Debtor who was
4 seeking representation. A turnover request for all recorded information obtained
5 by his law firm has been submitted.

6 WHEREFORE, the Trustee requests that the Court strike Mr. Kornfeld's
7 declaration and grant such other and further relief as the Court deems appropriate
8 and just.

9 Dated: January 10, 2023 POTOMAC LAW GROUP PLLC

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11 By: s/ Pamela M. Egan
12 Pamela M. Egan (WSBA No. 54736)
13 *Attorneys for Mark D. Waldron, Chapter 7*
14 *Trustee, Plaintiff*
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